

**KENTUCKY PERSONNEL BOARD
MINUTES OF JULY 12, 2019**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chair Crall on July 12, 2019, at approximately 9:30 a.m., at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky.

Board Personnel Present:

Brian J. Crall, Chair
Mark O. Haines, Vice Chair
Beverly H. Griffith, Member
William J. Byrley, Member
Catherine J. Monteiro, Member
Richard M. Waite II, Member
Tanya Lawrence, Member
Mark A. Sipek, Executive Director and Secretary
Stafford Easterling, General Counsel
Cynthia Perkins, Administrative Section Supervisor
Gwen McDonald, Administrative Specialist

2. **READING OF THE MINUTES OF THE REGULAR MEETING HELD JUNE 14, 2019.**

The minutes of the last Board meeting had been previously circulated among the members. Chair Crall noted a correction made just prior to the Board meeting refining the language of Item 11, authorizing Mr. Sipek to raise Cindy Perkins' salary up to midpoint, and asked for any other additions or corrections. Ms. Monteiro moved to approve the minutes as submitted. Mr. Waite seconded and the motion carried 6-0. The Board members signed the minutes.

(Chair Crall does not vote, unless noted.)

3. **EXECUTIVE DIRECTOR AND SECRETARY'S REPORT**

Mr. Sipek discussed a motion filed in the Stephen Knipper vs. Office of the Governor appeal, which was added to the Agenda for the Board's review. At a pre-hearing conference earlier this week, the parties agreed to move this Item to the August meeting. It would also allow more time for the Board to review this motion and the parties' responses. The parties will be addressing the Board about this matter at the August meeting.

Mr. Sipek praised the Kentucky Employees Mediation Program. He announced the successful resolution of the John Cummings vs. Justice and Public Safety Cabinet appeal as a product of mediation and thanked the Program for its work on that matter.

Lastly, Mr. Sipek asked if the Board wished to publish the Report and Recommendation and Final Order in the Little Sandy Correctional Complex investigation on the Board's website. Mr. Sipek stated the interview summaries would not be put on the website. The Board agreed.

4. REPORT OF THE PERSONNEL CABINET

Secretary Thomas Stephens and the Hon. Rosemary Holbrook, General Counsel, were present for the Personnel Cabinet.

Ms. Holbrook discussed the amendment to the regulations regarding leave general requirements for classified and unclassified service. Commissioner Mary Elizabeth Bailey was also available to answer any questions the Board had regarding the changes to the leave general requirements. Other proposed changes were to increase the adoption incentive program, which helps pay for or reimburse parents for some of the costs incurred for adopting a child, and increased benefits for adopting children with special needs. Lastly, Ms. Holbrook, together with Donna Shelton, Executive Director of the Office of Employee Relations, shared a change to the Employee Suggestion System regulation that would expedite the process and help get the rewards to the employees more quickly.

Amendment to Regulations:

101 KAR 2:102, Classified leave general requirements.

101 KAR 3:015, Leave requirements for unclassified service.

101 KAR 2:120, Incentive Programs

101 KAR 2:120E, Incentive Programs

Mr. Easterling questioned the annual leave payout requirements for unclassified employees dismissed without cause. Ms. Holbrook stated the regulations were currently silent about this, however, the annual leave was currently paid out, but was capped per the chart in the regulation.

Mr. Waite moved to approve all the regulations as amended by the Personnel Cabinet. Mr. Haines seconded and the motion carried 6-0.

Secretary Stephens stated the Personnel Cabinet had reviewed the proposed petitioned position and found it to be in accordance with state law. He thanked Mr. Waite for his service to the Commonwealth upon his retirement.

5. **PETITIONED POSITIONS**

Cabinet for Health and Family Services
Office of Legal Services
Special Assistant

Lynn Gillis, Assistant Director of the Office of Human Resources, and Tresa Straw, Chief of Staff for the Secretary, presented the petition to the Board for its review.

Ms. Monteiro moved to approve an unclassified Special Assistant position with the Cabinet for Health and Family Services, Office of Legal Services. Ms. Lawrence seconded and the motion carried 6-0.

6. **ORAL ARGUMENTS (None)**

7. **REVIEW OF INTERIM ORDER**

A. ~~Stephen Knipper v. Governor's Office (Appeal No. 2019-037)~~
~~--Appellee's Response to Interim Order~~
Moved to August

B. Kiersten Richardson and Dylan Gorski
--Interim Order
--Amended Interim Order
--Response from Local Government
--Reply to Appellee's Response to Hearing Officer's Interim Order

Chair Crall asked Mr. Sipek to provide an overview for the Board about what was expected from this review, with specificity for the parties as well. Mr. Sipek stated the Interim Order was properly designated by the Hearing Officer to be reviewed by the Board. Mr. Easterling has recused from these appeals as Hearing Officer. Should the Board agree, a new Hearing Officer would be selected to continue to hear the appeal. The parties did not request to present to the Board on this issue. Chair Crall stated the Board would vote on these matters after the closed session.

Following the closed session, Ms. Griffith moved to accept the Hearing Officer's Interim Order as Altered, specifically only accepting the first full paragraph of page 5. Ms. Monteiro seconded and the motion carried 6-0.

8. REQUESTS FOR INVESTIGATION

A. Department for Local Government

Kiersten Richardson and Dylan Gorski

- Request made by Hearing Officer Stafford Easterling for Personnel Board Investigation or, in the Alternative, for Personnel Cabinet Investigation
- Addendum to Request for Personnel Board Investigation or, in the Alternative, for Personnel Cabinet Investigation
- Secretary Stephens' letter to the Board
- Kiersten Richardson' and Dylan Gorski's Response to both the Request for Personnel Board Investigation and the Interim Order
- Request to Orally Address the Personnel Board (Gorski & Richardson)

Present were the Appellants, Kiersten Richardson and Dylan Gorski, and counsel for the Appellee, the Hon. Jessica Burke. The parties answered questions from the Board. General Counsel Easterling discussed the legal reasons for his request.

Personnel Cabinet Secretary Stephens stated the Personnel Cabinet is conducting an investigation into this matter and also announced that he was recusing from the matter. Deputy Secretary Lesley Bilby is heading up the investigation. She presented before on behalf of the Personnel Cabinet to the Board, stating that the Hon. Rosemary Holbrook and Executive Director Tiffany Yeast would be leading the Cabinet's investigation.

Following closed session, Ms. Monteiro moved to remand the request for investigation back to the Hearing Officer as insufficient for adjudication. Ms. Lawrence seconded and the motion carried 6-0.

B. Cabinet for Health and Family Services

Office of Vital Statistics

- Request for Investigation by Steven G. Bolton into Melissa Hall's detail to Special Duty and promotion to Resource Management Analyst II on behalf of Appellants Cathy Brown, Margaret Clark and Kimberly Owens
- Steve Bolton's Response to Mark Sipek's memorandum of June 26, 2019.
- CHFS Response to June 19, 2019 Request for Investigation

Present were Kathy Brown, Appellant, and counsel for the Appellee, the Hon. Jennifer Wolsing. After discussion about the request, the parties answered questions from the Board.

Following closed session, Mr. Byrley moved to reject the request for investigation. Mr. Haines seconded and the motion carried 6-0.

9. **CLOSED SESSION/RETURN TO OPEN SESSION**

Mr. Byrley moved that the Board go into Executive Session for the purposes of discussing complaints, and deliberations regarding individual adjudications. Mr. Waite seconded. Chair Crall stated that a motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. [Pursuant to KRS 61.810(1)(j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be deliberations regarding individual adjudications as listed on the Board's Agenda for today's meeting.] (11:38 a.m.)

Ms. Monteiro moved to return to open session. Mr. Waite seconded and the motion passed by acclamation. (1:15 p.m.)

10. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments, where applicable.

Show Cause Orders – No Response Filed – Appeals Dismissed

- A. Douglas Campoamor v. Transportation Cabinet (2019-072)
- B. Joshua Cooper v. Transportation Cabinet (2019-049)
- C. Cristy DeShazo v. Department of Veterans Affairs (2019-032)
- D. Sean Harris v. Justice and Public Safety Cabinet/Corrections (2018-109)
- E. Michelle Heightchew v. Justice and Public Safety Cabinet/Corrections & Personnel Cabinet (2019-076)
- F. Cynthia Overstreet v. Justice and Public Safety Cabinet/DJJ (2018-131)
- G. Chad Ricker v. Energy and Environment Cabinet (2019-082)

Ms. Monteiro moved to accept the recommended orders and to dismiss the appeals for failure to prosecute the appeals. Ms. Lawrence seconded and the motion carried 6-0.

11. WITHDRAWALS

Mr. Waite moved to accept the following withdrawals *en bloc* and to dismiss the appeals. Ms. Griffith seconded and the motion carried 6-0.

- A. Charla Aaron v. Transportation Cabinet & Personnel Cabinet (2017-140)
- B. Benjamin Currens v. Personnel Cabinet (2019-127)
- C. Jarayah Dilday v. Justice and Public Safety Cabinet/Corrections (2019-013)
- D. Robert Hill v. Justice and Public Safety Cabinet/Corrections & Personnel Cabinet (2019-110)
- E. Emily Jewell v. Personnel Cabinet (2019-124)
- F. Michael Phelps v. Transportation Cabinet (2019-038)
- G. Grace Smith v. Justice and Public Safety Cabinet/Juvenile Justice (2019-048)
- H. Kayla Brooke Smith, v. Department of Veterans Affairs (2019-070)
- I. Carl Van Zee v. Transportation Cabinet & Ky. Retirement Systems (2018-O85)
- J. Maria Kielmar v. Energy and Environment Cabinet (2019-115)
- K. James DeShazer v. Justice and Public Safety Cabinet/Corrections & Personnel Cabinet (2019-116)

12. SETTLEMENTS

Mr. Waite moved to issue settlement orders and to sustain the appeals *en bloc* to the extent set forth in the settlements as submitted by the parties. Ms. Monteiro seconded and the motion carried 6-0. Ms. Lawrence abstained from Item "E."

- A. Felicia Braswell v. Cabinet for Health and Family Services (2019-007)
- B. Kathy Emerson v. Cabinet for Health and Family Services (2018-189)
- C. Shane McDonald v. Finance and Administration Cabinet (2019-027) (Mediation)
- D. Rita Ruggles v. Cabinet for Health and Family Services (2019-020) (Mediation)
- E. Grant Sorrell v. Cabinet for Health and Family Services (2018-246) (Mediation)
- F. Benjamin Wright v. Department of Education (2018-242) (Mediation)
- G. John Cummings v. Justice and Public Safety Cabinet (2016-020) (Mediation)


13. **OTHER**

Mr. Sipek congratulated Mr. Waite on his retirement and thanked him for his service.

There being no further business, Chair Crall adjourned the meeting. (1:25 p.m.)




Brian J. Crall, Chair



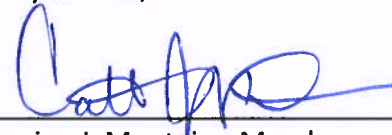
Mark O. Haines, Vice Chair



Beverly Griffith, Member

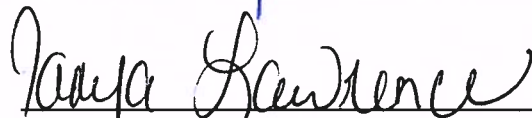


William J. Byrley, Member



Catherine J. Monteiro, Member

Richard M. Waite II, Member



Tanya Lawrence, Member